HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 16079 of 2007

Between:

D. Siva Prasad

... Petitioner

And

Government of Andhra Pradesh,
Higher Education(EC) Department,
Hyderabad & others

... Respondents

:: O R D E R ::

Counsel for the petitioner : Shri M. Satyanarayana Goud
for Shri K. Ramakanth Reddy

July 27, 2007

Per G.S. Singhvi, CJ

The petitioner, who is a practicing advocate and has absolutely nothing to do with admission against 20% B-category seats in Under Graduate Professional Course in Engineering (including Technology) has filed this petition in the name of public interest litigation for striking down the Andhra Pradesh Unaided Non-Minority Professional Institutions (Regulation of Admissions into Under-graduate Professional Courses through Common Entrance Test) Rules, 2006 (for short, 'the Rules') and for issue of a mandamus to respondent Nos.1 to 3 to ensure that admissions are made by respondent Nos.4

and 5 colleges after issuing notification in leading Telugu, Hindi and Urdu newspapers and national newspapers. He has further prayed for issue of a direction to respondent Nos.4 and 5 to supply application forms to all the candidates and make admissions in a fair manner as per merit.

In the affidavit filed by him, the petitioner has tried to establish his locus to file litigation pro bono publico by stating that he had filed Writ Petition No.1998 of 2005 for declaring the strike by the Andhra Pradesh State Road Transport Corporation employees as illegal. He has then made a reference to Rule 6 of the Rules and averred that respondent Nos.4 and 5 are making admissions without issuing advertisement; that they are not issuing applications for admission against 20% B-category seats and that the admissions are being made on selective basis and by collecting money in the guise of donations. In paragraph 21 of his affidavit, the petitioner has averred that three meritorious candidates, namely, M. Ratin, B. Swaroop Kumar and K. Srinivasulu Reddy, who have secured 95%, 92% and 82.60% marks respectively, have not been favoured with any response despite the fact that they had applied long back.

We have heard Shri M. Satyanarayana Goud, learned counsel for the petitioner and carefully scanned the averments contained in the writ petition. In our opinion, the petitioner does not have the locus to invoke jurisdiction of this Court through this so-called pro bono publico litigation. The mere fact that the petitioner had earlier filed writ petition to highlight the sufferance of the public due to strike by the employees of Andhra Pradesh State Road Transport Corporation is not at all sufficient for entertaining his locus to question the procedure being adopted by respondent Nos.4 and 5 for making admissions in Under-graduate Engineering Courses. In the context of the prayer made by

him, the petitioner's position is nothing more than a mere bystander or busybody. He has no concern, direct or indirect, with the admissions in the Under-graduate Engineering Courses. If he had any tangible interest in the matter, he would have, before seeking intervention of the Court, made a representation to respondent Nos.1, 2 and 5 to 7 to highlight the alleged irregularities being conducted by respondent Nos.4 and 5 in making admissions and implored upon them to take corrective measures. However, the fact of the matter is that he has simply walked into the Court by filing petition in the name of public interest litigation.

In early eighties, the Courts entertained petitions pro bono publico filed by social activists and other public spirited persons to highlight the issues relating to the plight of the poor, downtrodden and have-nots of the society and denial of basic rights to them because people belonging to those groups/classes were not able to seek intervention of the Court on account of ignorance, illiteracy, poverty and similar other disabilities. In later years, the Courts also entertained petitions filed for highlighting wrong done by the State to the general public. Even the cases of corruption were brought to the notice of the Court through the mechanism of public interest litigation. This encouraged a large section of unscrupulous litigants to file frivolous and vexatious petitions in the name of public interest litigation. Some filed petitions only for the sake of publicity while others did so for settling their personal scores. The enormous increase in number of such petitions compelled the Courts to have a re-thinking on the issue of locus standi. In **Janata Dal v. H.S. Chowdhary**[1], the Supreme Court considered the question whether a political party or an individual was entitled to invoke the High Court's

jurisdiction in the name of public interest litigation and laid down the following propositions:

"1) In defining the rule of locus standi in PIL no 'rigid litmus test' can be applied since the broad contours of PIL are still developing apace seemingly with divergent views on several aspects of the concept of this newly developed law and discovered jurisdiction leading to a rapid transformation of judicial activism with a far-reaching change both in the nature and form of the judicial process. The dominant object of PIL is to ensure observance of the provisions of the Constitution or the law which can be best achieved to advance the cause of community or disadvantaged groups and individuals or public interest by permitting any person, acting bona fide and having sufficient interest in maintaining an action for judicial redress for public injury to put the judicial machinery in motion like *action popularis* of Roman Law whereby any citizen could bring such an action in respect of a public delict. The Supreme Court has widely enlarged the scope of PIL by relaxing and liberalizing the rule of standing by treating letters or petitions sent by any person or association complaining violation of any fundamental rights and also entertaining writ petitions filed under Article 32 by public spirited and policy-oriented activist persons or journalists or of any organization rejecting serious challenges made with regard to the maintainability of such petitions and rendered many virtuosic pronouncements and issued manifold directions to the Central and the State Governments, all local and other authorities within the territory of India or under the control of the Government of India for the betterment of the public at large in many fields in conformity with constitutional prescriptions of what constitutes the good life in a socially just democracy.

2) However, only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court for the poor and needy, suffering from violation of their fundamental rights. But a person for personal gain or private profit or political motive or any oblique consideration has no locus standi. Similarly, a vexatious petition under the colour of PIL brought before the Court for vindicating any personal grievance, deserves rejection at the threshold. The Court should not allow its process to be abused by mere busybodies, meddlesome interlopers, wayfarers or officious

interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity. But this does not mean there is any retreating or recoiling from the earlier views expressed by the Supreme Court about the philosophy of public interest litigation.

3) In this case 'not even a single ray of the characteristic of public interest litigation is visibly seen' in the petitions of Shri H.S. Chowdary. He appears to be very much concerned with the personal and private interest of the accused in the criminal case. It cannot be said that this litigation is in the nature of PIL to vindicate and effectuate the public interest. Therefore, Shri Chowdhary has no locus standi to file the petition or to invoke the revisional or extraordinary inherent jurisdiction of the High Court under Sections 397 and 482 CrPC respectively and the petition under Article 51-A of the Constitution cannot come within the true meaning and scope of public interest litigation."

In **Rajnit Prasad v. Union of India**[2], the Supreme Court noted that the scope of locus standi has been widened in recent years, but ruled that a mere busybody, who has no interest, cannot invoke jurisdiction of the superior Courts in the name of public interest litigation.

In **Dattaraj Nathuji Thaware v. State of Maharashtra**[3], the Supreme Court while rejecting the locus of the petitioner, who was a lawyer, to file petition in public interest, observed as under:

"A person acting bona fide and having sufficient interest in the proceedings of public interest litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial

process either by force of habit or from improper motives, and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."

In **T.N. Godavarman Thirumalpad (98) v. Union of India**[4], the Supreme Court again administered a caution against entertaining of frivolous petitions in the name of public interest litigation and held:

> "Howsoever genuine a cause brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bona fides and credentials are in doubt. In a given exceptional case where bona fides of a public interest litigant are in doubt, the court may still examine the issue having regard to the serious nature of the public cause and likely public injury by appointing an amicus curiae to assist the court but under no circumstances with the assistance of a doubtful public interest litigant. No trust can be placed by the court on a mala fide applicant in public interest litigation. These are basic issues which are required to be satisfied by every public interest litigation."

In view of the above stated factual and legal position, we hold that the present one is not a piece of bona fide public interest litigation. Rather, it is a public gimmick and is liable to be dismissed at the threshold. Ordered accordingly.

As a sequel to dismissal of the writ petition, WPMP No.20426 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

July 27, 2007

C.V. NAGARJUNA REDDY, J

SVS

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[1] (1992) 4 SCC 305

[2] (2000) 9 SCC 313

[3] (2005) 1 SCC 590

[4] (2006) 5 SCC 28